THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 32684 of 1998

Dated: 22.06.2007

Between:

N.N. Chary

... Petitioner

AND

Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad & another.

... Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 32684 of 1998

ORDER:-

This writ petition is filed by the petitioner questioning the award dated 11.07.1997 in I.D.No.55 of 1996 on the file of Additional Industrial Tribunal-cum-Labour Court, Hyderabad (for short 'the Tribunal') whereby the Tribunal refused to interfere with the punishment imposed on him.

The petitioner was working as a Conductor in Andhra Pradesh State Road Transport Corporation (for short 'APSRTC') since the year 1978. On 23.05.1993, when he was conducting the bus on route No.284 Koti to Prathapsingaram, a check was conducted. A charge memo was issued to the petitioner on 23.05.1993 and he submitted his explanation. Not being satisfied with the same, a charge sheet was issued on 03.06.1993 to the petitioner. An enquiry was conducted and on the basis of the enquiry report, respondent No.2, after receiving the explanation from the petitioner, passed an order removing him from service vide proceedings dated 05.11.1993. The petitioner was unsuccessful in his appeal filed before the Divisional Manager, Hyderabad. However, on the review filed by the petitioner to the Regional Manager, the said authority vide proceedings dated

18.03.1995 directed his reinstatement as a fresh conductor. As the petitioner was not satisfied with the said order, he approached the Tribunal, which as already mentioned, vide the impugned award rejected the relief to the petitioner.

Heard Sri P. Sudheer Rao, learned counsel for the petitioner and no one appeared for respondent No.2.

Learned counsel for the petitioner made strenuous efforts to convince me that the award of the Tribunal suffers from a patent error warranting interference of this Court. He submitted that the amount sought to be misappropriated was Rs.2/- as the accusation against the petitioner was that he failed to issue tickets to two individual passengers of Re.1/- each. He also stated that he has a clean record right from the time of his entry into the corporation in the year 1978 and therefore denial of benefit of the entire service benefits to the petitioner is too harsh and disproportionate to the alleged misconduct.

I have carefully considered the submissions of the learned counsel for the petitioner, but I do not feel persuaded to accept his contentions.

It is no doubt true that the amount involved is meager, but as held by the Supreme Court in a catena of judgments that it is the propensity of the employee to misappropriate, which is material and not the amount, which is misappropriated.

From a perusal of the award of the Tribunal, it is clear that it

had made an elaborate discussion of the entire evidence on record. It has taken into consideration the fact that the two passengers to whom the tickets were not issued have given spot statements in addition to the evidence of Yadagiri, the driver, who boarded the bus along with the said two passengers. The evidence of Yadagiri had corroborated with the evidence of the two checking officials, who deposed that the petitioner on sighting them hurriedly torn the two tickets, wrongly punched at stage No.13 instead of punching at stage No.12 and threw the tickets behind him in a hurry. The Tribunal was therefore totally in complete agreement with the finding of the enquiry officer and the disciplinary authority on the misconduct of the petitioner.

The law is well settled that under Section 11-A of the Industrial Disputes Act, 1947, the Tribunal is vested with the power to exercise discretion on the quantum of punishment though ordinarily it is the primary authority, which is vested with the power to decide on the quantum of punishment in proportion to the gravity of proven misconduct. Unless the punishment imposed on the employee shocks the judicial conscience of the Tribunal or Court, the quantum of penalty imposed by the primary authority is not liable to be interfered with. The Tribunal has given cogent reasons for not interfering with the punishment imposed on the petitioner by the reviewing authority. As the award does not suffer from any error, I am not inclined to interfere with the said award while exercising the power of judicial review under Article 226 of the Constitution of India.

For the aforementioned reasons, the writ petition fails and is accordingly dismissed. No costs.

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C.V. NAGARJUNA REDDY, J

Date: 22.06.2007
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